

113TH CONGRESS
2D SESSION

H. R. 3907

To increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2014

Mr. COHEN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice Integrity Act
5 of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the pursuit of justice requires the fair appli-
9 cation of the law;

1 (2) racial and ethnic disparities in the criminal
2 process have contributed to a growing perception of
3 bias in the criminal justice system;

4 (3) there are a variety of possible causes of dis-
5 parities in criminal justice statistics among racial
6 and ethnic groups and these causes may differ
7 throughout the United States, including crime rates,
8 racial discrimination, ethnic and cultural insen-
9 sitivity, or unconscious bias, as well as other factors;

10 (4) the Nation would benefit from an under-
11 standing of all factors causing a disparate impact on
12 the criminal justice system; and

13 (5) programs that promote fairness will in-
14 crease public confidence in the criminal justice sys-
15 tem, increase public safety, and further the pursuit
16 of justice.

17 **SEC. 3. PILOT PROGRAM.**

18 (a) IN GENERAL.—Not later than 90 days after the
19 date of enactment of this Act, the Attorney General shall
20 establish a pilot program in 10 United States districts in
21 order to promote fairness, and the perception of fairness,
22 in the Federal criminal justice system, and to determine
23 whether legislation is required.

24 (b) PROGRAM REQUIREMENTS.—

1 (1) U.S. ATTORNEYS.—The Attorney General
2 shall designate, in accordance with paragraph (3),
3 10 United States Attorneys who shall each imple-
4 ment a plan in accordance with section 4, beginning
5 not later than 1 month after those United States At-
6 torneys are designated by the Attorney General.

7 (2) PURPOSE.—The purposes of the plans re-
8 quired by this section are—

9 (A) to gather racial and ethnic data on in-
10 vestigations and prosecutions in the United
11 States districts and the causes of disparities, if
12 any;

13 (B) to determine the extent to which the
14 communities' perception of bias has affected
15 confidence in the Federal criminal justice sys-
16 tem;

17 (C) to analyze whether measures may be
18 taken to reduce unwarranted disparities, if any,
19 and increase confidence in the criminal justice
20 system; and

21 (D) to make recommendations, to the ex-
22 tent possible, to ensure that law enforcement
23 priorities and initiatives, charging and plea bar-
24 gaining decisions, sentencing recommendations,
25 and other steps within the criminal process are

1 not influenced by racial and ethnic stereotyping
2 or bias, and do not produce unwarranted dis-
3 parities from otherwise neutral laws or policies.

4 **(3) CRITERIA FOR SELECTION.—**

5 (A) IN GENERAL.—The 10 pilot districts
6 referred to in subsection (a) shall include dis-
7 tricts of varying compositions with respect to
8 size, case load, geography, and racial and ethnic
9 composition.

10 (B) METROPOLITAN AREAS.—At least 3 of
11 the United States Attorneys designated by the
12 Attorney General shall be in Federal districts
13 encompassing metropolitan areas.

14 **SEC. 4. PLAN AND REPORT.**

15 (a) IN GENERAL.—

16 (1) UNITED STATES ATTORNEY.—Each United
17 States Attorney shall, in consultation with an advi-
18 sory group appointed in accordance with paragraph
19 (2), develop and implement a plan in accordance
20 with subsections (b) and (c).

21 (2) ADVISORY GROUP.—

22 (A) APPOINTMENT.—Not later than 90
23 days after designation by the Attorney General,
24 the United States Attorney in each of the 10
25 pilot districts selected pursuant to section 3

1 shall appoint an advisory group, after consulta-
2 tion with the chief judge of the district and
3 criminal justice professionals within the district.

4 (B) MEMBERSHIP.—The advisory group of
5 a United States Attorney shall include—

6 (i) 1 or more senior social scientists
7 with expertise in research methods or sta-
8 tistics; and

9 (ii) individuals and entities who play
10 important roles in the criminal justice
11 process and have broad-based community
12 representation such as—

13 (I) Federal and State prosecu-
14 tors;

15 (II) Federal and State defenders,
16 if present in the district, and private
17 defense counsel;

18 (III) Federal and State judges;

19 (IV) Federal and State law en-
20 forcement officials and union rep-
21 resentatives;

22 (V) a member of the United
23 States Sentencing Commission or des-
24 ignee;

1 (VI) parole and probation officers;
2
3 (VII) correctional officers;
4
5 (VIII) victim's rights representatives;
6
7 (IX) civil rights organizations;
8
9 (X) business and professional
representatives; and
10
11 (XI) faith-based organizations
that provide services to people involved in the criminal justice system.

12 (C) TERM LIMIT.—Subject to subparagraph
13 graph (D), a member of the advisory group
14 shall not serve longer than 5 years.

(ii) The Federal defender for the judicial district.

(E) REPORTER.—The United States Attorney may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Executive Office of the United States Attorneys.

(F) INDEPENDENT CONTRACTORS.—The members of an advisory group of a United States Attorney and any person designated as a reporter for such group—

(i) shall be considered independent contractors of the United States Attorney's Office when in the performance of official duties of the advisory group; and

(ii) may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before any court.

17 (b) DEVELOPMENT AND IMPLEMENTATION OF A
18 PLAN AND REPORT.—

(1) ADVISORY GROUP REPORT.—The advisory group appointed under subsection (a)(2) shall—

(A)(i) systematically collect and analyze quantitative data on the race and ethnicity of the defendant and victim at each stage of prosecution, including case intake, bail requests, declinations, selection of charges, diversion from

1 prosecution or incarceration, plea offers, sentencing recommendations, fast-track sentencing,
2 and use of alternative sanctions; and
3

4 (ii) at a minimum, collect aggregate data
5 capable of individualization and tracking
6 through the system so that any cumulative racial or ethnic disadvantage can be analyzed;

7 (B) seek to determine the causes of racial
8 and ethnic disparities in a district, and whether
9 these disparities are substantially explained by
10 sound law enforcement policies or if they are at
11 least partially attributable to discrimination, insensitivity, or unconscious bias;

12 (C) examine the extent to which racial and
13 ethnic disparities are attributable to—
14

15 (i) law enforcement priorities, prosecutorial priorities, the substantive provisions of legislation enacted by Congress; or
16

17 (ii) the penalty schemes enacted by
18 Congress or implemented by the United States Sentencing Commission;

19 (D) examine data including—
20

21 (i) the racial and ethnic demographics
22 of the United States Attorney's district;
23

(ii) defendants charged in all categories of offense by race and ethnicity, and, where applicable, the race and ethnicity of any identified victim;

(iii) recommendations for sentencing enhancements and reductions, including the filing of substantial assistance motions, whether at sentencing or post-conviction, by race and ethnicity;

(iv) charging policies, including decisions as to who should be charged in Federal rather than State court when either forum is available, and whether these policies tend to result in racial or ethnic disparities among defendants charged in Federal court, including whether relative disparities exist between State and Federal defendants charged with similar offenses;

(v) the racial and ethnic composition of the Federal prosecutors in the district; and

(vi) the extent to which training in the exercise of discretion, including cultural competency, is provided prosecutors;

(E) consult with an educational or independent research group, if necessary, to conduct work under this subsection; and

(F) submit to the United States Attorney by the end of the second year after their initial appointment a report and proposed plan, which shall be made available to the public and which shall include—

(i) factual findings and conclusions on racial and ethnic disparities, if any, and the State of public confidence in the criminal process;

(ii) recommended measures, rules, and programs for reducing unjustified disparities, if any, and increasing public confidence; and

(iii) an explanation of the manner in which the recommended plan complies with this paragraph.

1 (3) COPY OF REPORT.—The United States At-
2 torney shall transmit a copy of the plan and report
3 adopted and implemented, in accordance with this
4 subsection, together with the report and plan rec-
5 ommended by the advisory group, to the Attorney
6 General. The United States Attorney shall include
7 with the plan an explanation of any recommendation
8 of the advisory group that is not included in the
9 plan.

10 (4) CONGRESS.—The Attorney General shall
11 transmit to the United States Attorneys in every
12 Federal district and to the Committees on the Judi-
13 ciary of the Senate and the House of Representa-
14 tives copies of any plan and accompanying report
15 submitted by a pilot district.

16 (c) PERIODIC UNITED STATES ATTORNEY ASSESS-
17 MENT.—After adopting and implementing a plan under
18 subsection (b), each United States Attorney in a pilot dis-
19 trict shall annually evaluate the efficacy of the plan. In
20 performing such assessment, the United States Attorney
21 shall consult with the advisory group appointed in accord-
22 ance with subsection (a)(2). Each assessment shall be sub-
23 mitted to the Executive Office for United States Attorneys
24 for review in accordance with subsection (d).

25 (d) INFORMATION ON THE PILOT PROGRAM.—

1 (1) REPORT AND MODEL PLAN.—Not later than
2 5 years after the date of the enactment of this Act,
3 the Attorney General shall—

4 (A) prepare a comprehensive report on all
5 plans received pursuant to this section;

6 (B) based on all the plans received pursu-
7 ant to this section the Attorney General shall
8 also develop one or more model plans; and

9 (C) transmit copies of the report and
10 model plan or plans to the Committees on the
11 Judiciary of the Senate and the House of Rep-
12 resentatives.

13 (2) CONTINUED OVERSIGHT.—The Attorney
14 General shall, on a continuing basis—

15 (A) study ways to reduce unwarranted ra-
16 cial and ethnic disparate impact in the Federal
17 criminal system; and

18 (B) make recommendations to all United
19 States Attorneys on ways to improve the sys-
20 tem.

21 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated \$3,000,000
23 for use, at the discretion of the Attorney General, by the

- 1 United States Attorneys' advisory groups in the development and implementation of plans under this Act.
- 2

○